

REMARKS

A reconsideration of the above-identified application is respectfully requested in view of the foregoing amendments and following discussion.

Claim Rejections – 35 U.S.C. § 102

Claims 2-5, 7 and 8 were rejected by the Examiner under 35 U.S.C. § 102(e) as being anticipated by Stanners et al. U.S. Patent No. 5,330,440. For clarification, Applicant would like to note that Stanners should be considered prior art under 35 U.S.C. § 102(b), not 35 U.S.C. § 102(e) as it had issued as a patent prior to the filing of the above-identified application. Although the Examiner has set forth Stanners as anticipating claims 2-5, 7 and 8 (claims 3-5, 7 and 8 being dependent from claim 2), it is not apparent to Applicant, nor his Attorney, that Stanners in any manner discloses the critical aspects of independent claim 2, as argued by the Examiner. Even prior to making the amendments to claim 2 as indicated herein, the claims set forth a "protrusion" which was adapted to pierce the diaphragm of the cartridge. There is no such protrusion shown in Stanners. In fact, Stanners utilizes the innermost end of the hollow needle to pierce a membrane 12, but this has some use limitations. As claimed in Applicant's claim 2, the protrusion is separate from the needle, and claim 2 now includes an amendment which emphasizes this fact, i.e. "said needle having its innermost end axially spaced from said protrusion." It is possible that the hollow needle 15 of Stanners could become plugged with a fragment of material forming the membrane 12, whereas any fragments that might be formed by the Applicant's separate protrusion will fall outside of the needle and in no way interfere with the flow of fluid through the needle. The protrusion of the present invention also provides further safety over the double-edged needle of Stanners in that there is less chance for a person to be stuck with a needle in the present invention. It is believed that claim 2, as currently amended, clearly calls

for a separation of the protrusion from the innermost end of the needle, which the arrangement was always present in claim 2, though not as specifically set forth as the claim as presently amended. In view of the amendment and the discussion set forth above, it is respectfully requested that claim 2 be passed to allowance.

It is further requested that claims 4 and 5 be passed to allowance, since claim 4 depends from what is to be considered to be allowable claim 2 and introduces elements not present in the 102(b) reference of Stanners et al. The breakaway feature means that the section will be broken off, as opposed to the cited structures in Stanners, 2a and 7a, which are sections that are threaded into one another (see Column 6, lines 36-40). The plunger in Stanners is not a breakaway feature, but a threaded feature. If a person attempted to break the plunger in Stanners, it is not certain where the plunger would break, or even if the plunger would break at all. The advantages of a simple break that allows for easy disposal of the syringe body are not present in Stanners.

Likewise, claim 5 further defines the breakaway feature to be specifically set forth as "a peripherally scored groove located intermediate the ends of said plunger". Certainly this is a configuration that in no way anticipated by Stanners. Stanners utilizes a conventional threaded arrangement between the "female threads 16b which mate with male threads 10c of head 10". This results in the separation step of Figure 14j, but requires a relatively cumbersome manual unscrewing operation as described in connection with Figures 14a to 14j. The operation description is set forth at column 8 beginning at line 43. It will be apparent that a simple breaking of a scored line is much simpler to achieve than unscrewing a thread which could have been frozen because of continued operation of the device. Accordingly, claims 4 and 5 are believed to be in condition for allowance.

Claims 7 and 8 depend from claim 2, which is believed to be in condition for allowance. Therefore, claims 7 and 8 are believed also to be in condition for allowance, and allowance is respectfully requested.


Allowable Subject Matter

Applicant thanks the Examiner for allowance of claims 6, 11, 16-18, and 20-25. Applicant would like to note that claim 23 was previously cancelled, and should not be included in the allowed claims.

Applicant agrees with the Examiner that cited prior art is pertinent to the Applicant's disclosure but does not anticipate or obviate the present invention.

Applicant believes the claims, as recited, contain patentable subject matter and requests that currently amended claim 2, previously amended claims 4-8, 11, 16-18 and 20, and original claims 21, 22, 24, and 25 be passed to allowance.

Respectfully Submitted,

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